

EXHIBIT A

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS

Mosaid Technologies, Incorporated

DEFENDANTS

Powerchip Semiconductor Corporation

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

HOWREY LLP

525 Market Street, Suite 3600

San Francisco, California 94105

Telephone: (415) 848-4900

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

[need information]

E-filing

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input checked="" type="checkbox"/> 3 | <input checked="" type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	LABOR	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 190 Other Contract	CIVIL RIGHTS	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 550 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 585 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 590 Other Statutory Actions
REAL PROPERTY	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 740 Railway Labor Act	FEDERAL TAX SUITS	<input type="checkbox"/> 591 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 592 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 445 Amer. w/Disabilities Employment	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 593 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 446 Amer. w/Disabilities Other	IMMIGRATION		<input type="checkbox"/> 594 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 595 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability		<input type="checkbox"/> 463 Habeas Corpus—Alien Detainee		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1332

Brief description of cause:

Breach of Contract.

VII. REQUESTED IN COMPLAINT:

- ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
- DEMAND \$ 2,000,000 plus interest and fees
- CHECK YES only if demanded in complaint: JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE MOSAID Technologies, Inc., "NOTICE OF RELATED CASE". Micron Technology, Inc., U.S.D.C., N.D. Ca., Case No.

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)
(PLACE AND "X" IN ONE BOX ONLY)☐ SAN FRANCISCO/OAKLAND☐ SAN JOSE

DATE

4-28-09

SIGNATURE OF ATTORNEY OF RECORD

Burt W. Moran

ORIGINAL
FILED
2009 APR 28 P 1:57
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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8 Attorneys for Plaintiff
MOSAID Technologies, Inc.
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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
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EDL

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15 MOSAID TECHNOLOGIES,
INCORPORATED,

16 Plaintiff,

17 vs.

18 POWERCHIP SEMICONDUCTOR
19 CORPORATION,

20 Defendant.
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CV 09

Case No. _____

1838

) COMPLAINT FOR DAMAGES FOR
) BREACH OF WRITTEN CONTRACT
)

) -AND-
)

) DEMAND FOR JURY TRIAL
)
)

COMPLAINT FOR DAMAGES FOR BREACH OF
WRITTEN CONTRACT

1 Plaintiff MOSAID Technologies, Incorporated ("MOSAID") alleges as follows for its
2 Complaint for Damages for Breach of Written Contract against defendant Powerchip Semiconductor
3 Corporation ("Powerchip"):

4 **PARTIES**

5 1. Plaintiff, MOSAID, is a corporation duly organized and existing under the laws of Ontario,
6 Canada, having a principal place of business at 11 Hines Road, Kanata, Ontario K2K 2X1, Canada.

7 2. Defendant, Powerchip, is, and at all times mentioned was, a corporation of the country of
8 Taiwan having a principal place of business at No. 12, Li-Hsin 1st Rd., Hsinchu Science Park, Hsinchu,
9 Taiwan, R.O.C.

10 **JURISDICTION**

11 3. The Court has personal jurisdiction over the Defendant in that the Defendant has
12 established minimum contacts with the forum. The exercise of jurisdiction over said Defendant would
13 not offend traditional notions of fair play and substantial justice. This Court also has personal
14 jurisdiction over the Parties because they executed written agreements on or about October 28, 2008,
15 which provide that the agreements will be governed by the laws of the State of California and that, in
16 the event of a dispute, this Court has personal jurisdiction and venue for any controversy or claim
17 arising out of or related to any breach of the agreement, including the breach alleged herein. The
18 allegations of this complaint relate to settlement of an earlier lawsuit between the Parties in this district
19 before Judge Fogel entitled *MOSAID Technologies Inc. v. Micron Technology, Inc.*, U.S.D.C., N.D.
20 Ca., Case No. 5:08-CV-04494-JF which was transferred to this District upon motion by the Defendant.

21 4. This Court also has diversity jurisdiction pursuant to 28 U.S.C. § 1332. The matter in
22 controversy exceeds the minimum for the Court's jurisdiction and is between citizens of different
23 States.

24 **VENUE**

25 5. Venue is proper in this district in light of the forum-selection clause in the agreements cited
26 in paragraph 3.

6. Defendant Powerchip is an alien that does business in the state of California and in this district, including providing products which are sold in this judicial district. Venue also is proper in this district pursuant to 28 U.S.C. § 1391.

FACTS

7. On July 25, 2006, MOSAID filed a patent infringement action in the Eastern District of Texas against Powerchip. That action was subsequently transferred to the Northern District of California, and was assigned to Judge Fogel.

8. On or about October 28, 2008, the parties executed a Patent Licensing Agreement (“PLA”). The parties entered into the PLA in conjunction with settlement of patent infringement litigation between the parties pending in the Northern District of California. The parties’ Settlement Agreement references the PLA as part of the parties’ settlement. The provisions of the PLA and the Settlement Agreement are incorporated herein by reference.

9. Pursuant to Article VIII, Section 11 of the PLA, the parties agreed that the PLA would be governed by California law. The parties also agreed that: “By signing this Agreement, . . . , the parties also consent to personal jurisdiction in the State of California, United States of America, and agree that any venue therein is an acceptable jurisdiction for any controversy or claim arising out of or related to this Agreement or any breach of this Agreement.” *Id.*

10. Plaintiff has performed all conditions, covenants, and promises required on its part to be performed in accordance with the terms and conditions of the PLA and the Settlement Agreement.

11. According to the terms of the PLA, and in particular Article V Section 1, Defendant Powerchip was obliged to pay \$1,000,000 to MOSAID on January 15, 2009. On or about January 15, 2009, Defendant breached the PLA by failing to make a required payment of \$1,000,000 due on that date. Instead, Defendant notified Plaintiff on that date, in writing, that it would not be making the required payment.

12. On or about April 15, 2009, Defendant further breached the PLA by failing to make an additional required payment of \$1,000,000 due on that date.

1 13. By letter of January 21, 2009, Plaintiff advised Defendant that it was in default under the
2 PLA and that interest would accrue as provided for in the PLA. Plaintiff further advised Defendant
3 that it would bring suit if payment was not made by January 26, 2009. Defendant did not make
4 payment by January 26, 2009, April 15, 2009, or at any time thereafter.

5 14. As a result of Powerchip's breach of contract, Plaintiff has been damaged in the amount of
6 \$2,000,000 plus interest.

7 **CLAIM FOR BREACH OF CONTRACT**

8 15. MOSAID incorporates by reference the foregoing paragraphs 1 – 14, as if fully set forth
9 herein.

10 16. MOSAID performed all of its obligations under the PLA.

11 17. Defendant's acts have breached the PLA and caused damage to MOSAID. MOSAID is
12 entitled to recover from Defendant the damages sustained by MOSAID as a result of Defendant's
13 breach of the PLA in an amount subject to proof at trial. Based upon said breach of contract,
14 MOSAID is entitled to recover its actual damages, attorney's fees, and other relief.

15 18. MOSAID is entitled to attorneys fees if it prevails in its claim for breach of the PLA.

16 19. Damages alone are insufficient to make MOSAID whole after Defendant's wrongful acts,
17 and MOSAID is also entitled to equitable and other relief.

1 WHEREFORE, Plaintiff prays judgment against Defendant, as follows:

2 1. For compensatory damages in the sum of \$2,000,000 plus interest at the rate of 1% per
3 month beginning as of October 28, 2008;

4 2. For other damages owned to MOSAID pursuant to the Settlement Agreement and/or PLA;

5 3. For prejudgment interest at the legal rate;

6 4. For reasonable attorneys' fees, if proper, according to proof;

7 5. For all costs of suit; and

8 6. For such other and further relief as the Court may deem proper.

9 DATED: April 28, 2009

10 HOWREY LLP

11 By: 

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13 Scott Wales
14 Attorneys for Plaintiff

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HOWREY LLP

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1 DEMAND FOR JURY TRIAL

2 Plaintiff MOSAID Technologies, Inc. hereby demands a trial by jury of this action.

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4 DATED: April 28, 2009

5 HOWREY LLP

6 By: *Scott Wales*

7 Scott Wales
8 Attorneys for Plaintiff

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27 HOWREY LLP

28 COMPLAINT FOR DAMAGES FOR BREACH OF
WRITTEN CONTRACT

-5-

1 **CERTIFICATION OF INTERESTED ENTITIES OR PERSONS**

2 Pursuant to Civil Local Rule 3-16, the undersigned certifies that as of this date, other than the
3 named parties, there is no such interest to report.

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5 DATED: April 28, 2009

6 HOWREY LLP

7 By: 

8 Scott Wales
9 Attorneys for Plaintiff

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